

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA

v.

Criminal No. 16-209

FLORES-MARAVILLA, Daniel O., et al.,

Defendants.

MOTION TO PRODUCE CONFIDENTIAL INFORMANT

COMES NOW the Defendant, Daniel O. Flores-Maravilla, by counsel, and requests this Court to order the government to disclose information related to the identity of any confidential informant ("CI") used in any way by any law enforcement agency related in any way to this case and in support hereof, states as follows:

1. Mr. Flores-Maravilla's Sixth Amendment right to confront witnesses requires disclosure of both the identity and benefits accorded to any CI(s) even remotely involved in this case.
2. In *Roviaro v. United States*, 77 S.Ct. 623 (1957), the Supreme Court acknowledged the public interest in protecting the identity of confidential informants in order to encourage the free flow of information apparently necessary in criminal prosecutions. However, the Court expressly limited the scope of this privilege, and reasoned that the interest in the anonymity of informants must yield when disclosure "is essential to the fair determination of a cause." *Id.* at 61.
3. The *Roviaro* court stated that while there was no fixed rule with respect to disclosure of a confidential informant, four considerations were relevant:
 - a. the crime charged;
 - b. the possible defenses;

- c. the possible significance of the informant's testimony; and
- d. other relevant factors.

4. The "relevant and helpful" language of Roviario requires disclosure of the identity of the informant when he was present at/during the commission of the alleged crime(s), has background knowledge of the actors in the alleged offense and especially, where he/she may have been an active participant in the alleged crime. *United States v. Price*, 783 F.2d 1132, 1138 (4th Cir. 1986); *McLawhorne v. North Carolina*, 484 F.2d 1, 3-5 (4th Cir. 1973).

5. To the extent that any such CI identified by the government is not an integral participant but more than a tipster, Mr. Flores-Maravilla's need to know outweighs the government's interest in maintaining the CI's confidential source because he faces the prospect of life in prison if he was to be convicted of the charged crimes. *United States v. Brinkman*, 739 F.2d 977 (4th Cir. 1984). This Court should exercise its discretion in favor of disclosure of any CI even remotely connected to this case. *United States v. Gray*, 47 F.3d 1359 (4th Cir 1995).

6. Any government assertion that there is some unspecified danger to the informant is insufficient to justify withholding the information concerning his/her whereabouts. As the courts have made clear, the decision concerning potential "danger" must be made only after an evidentiary hearing.

7. The identity and whereabouts of any such CI informant is essential to the preparation of Flores-Maravilla's defense. He requires the opportunity to test any such informant's credibility, ascertain his general relationship to others charged herein, discover the entire scope of his meetings, conversations and contacts with the principals herein, and to investigate the informant's allegations.

Respectfully submitted,
Daniel O. Flores-Maravilla
By Counsel

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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was served by ECF, email, fax, hand-delivery, and/or first class mail, postage prepaid to:

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